



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
CARRIBEAN ENVIRONMENTAL PROTECTION DIVISION
CITY VIEW PLAZA II BUILDING, 7TH FLOOR
ROUTE 165 GUAYNABO, PUERTO RICO 00968

110519

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Oscar Javier Santamaria Torres
President
Waste Collection, Corp.
81 Ave. Muñoz Rivera
San Juan, Puerto Rico 00918

**Re: Request for Information Pursuant to Section 308 of the Clean Water Act
Solid Waste Transfer Station Facility in Cidra, Puerto Rico
CEPD-CWA-02-IR-2020-002**

Dear Mr. Santamaria Torres:

This letter is in reference to the National Pollutant Discharge Elimination System ("NPDES") Stormwater Inspection (the "Inspection") that an official of the United States Environmental Protection Agency ("EPA") performed at the Waste Collection, Corp.'s ("WCC") solid waste transfer station facility located at Road PR-1, Km. 49.2, Parcelas Nuevas, Beatriz Ward, Cidra, Puerto Rico (the "Facility") on May 2, 2019. The industrial operations at the Facility are best described by the Standard Industrial Classification Code 4212 (Local Trucking Without Storage – Garbage, Local Collecting and Transportation: without disposal).

The purpose of the Inspection was to evaluate WCC's compliance with the NPDES stormwater permit application regulations in 40 C.F.R. § 122.26, as it relates to the operations of the Facility. Enclosed please find a copy of the Inspection Report, dated October 9, 2019.

Statutory and Regulatory Provisions, and NPDES Permitting

Section 301(a) of the Clean Water Act ("CWA" or the "Act"), 33 U.S.C. § 1311(a), states that except as in compliance with Section 402 of the CWA, 33 U.S.C. § 1342, the discharge of any pollutant by any person shall be unlawful. Section 402(p)(2)(B) of the CWA, 33 U.S.C. § 1342(p)(2)(B), requires an NPDES permit with respect to a storm water discharges associated with industrial activity. The NPDES regulations at 40 C.F.R. § 122.26(b)(14)(viii) includes transportation facilities which have vehicle maintenance shops and equipment cleaning operations, and indicates that only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, or which are otherwise identified under 40 C.F.R. § 122.(b)(14)(i) or (ix)-(xi).

Pursuant to the NPDES regulations at 40 C.F.R. § 122.26(b)(14)(viii), operators of solid waste transfer stations identified by SIC Code 4212 may be subject to NPDES permitting, and as such, may be required to obtain a NPDES permit for storm water discharges associated with industrial activities.

On June 4, 2015, EPA re-issued the NPDES Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (the "2015 MSGP"), as authorized under Section 402(p) of the CWA. The 2015 MSGP became effective on June 4, 2015 and will expire on June 4, 2020. The 2015 MSGP also established Notice of Intent ("eNOI") filing requirements, development and implementation of a Stormwater Pollution Prevention Plan ("SWPPP"), inspections, monitoring, reporting, recordkeeping and other special and general conditions.

On October 23, 2019, an EPA official reviewed the EPA "E-ENTERPRISE" portal (<https://e-enterprise.gov/>) to determine whether WCC filed an electronic Notice of Intent ("NOI") to seek coverage under the 2015 MSGP. The EPA official found that WCC has not submitted an eNOI for the Facility.

Request for Information ("RFI")

Section 308(a) of the CWA, 33 U.S.C. § 1318(a), states that whenever it is necessary to carry out the objectives of the CWA, including determining whether or not a person is in violation of Section 301(a) of the CWA, EPA shall require the submission of any information reasonably necessary to make such a determination. Under the authority of Section 308 of the CWA, EPA may require the submission of information necessary to assess the compliance status of any facility and its related appurtenances.

EPA issues this Request for Information ("RFI") to WCC pursuant to the authority vested in the Administrator of EPA by Section 308(a) of the CWA. This authority has been duly delegated to the Regional Administrator of Region 2, EPA, and since further re-delegated to the Director, Caribbean Environmental Protection Division. The purpose of this RFI is to require WCC to submit information to EPA regarding the operation at the Facility. The EPA will use the information requested below to determine compliance with Sections 301(a), 308(a), and 402(p) of the CWA.

RFI – Instructions

In responding to this Request for Information, apply the following instructions, definitions and information:

- a. The signatory should be an officer or agent who is authorized to respond on behalf of WCC pursuant to the signatory requirements regulations codified at 40 C.F.R. § 122.22.
- b. A complete separate response must be made for each individual question in this Request for Information. Identify each answer with the number of the question it addresses, and precede each answer with the question to which it is addressed.
- c. Interpret "and" as well as "or" to include within the scope of the question as much information as possible. If two interpretations of a question are possible, use the one that provides more information.

- d. In preparing your response to each question, consult with all present and former employees, agents and/or contractors whom you have reason to believe may be familiar with the matter to which the question pertains, regardless of whether the source is in your immediate possession.
- e. In answering each question, identify all contributing sources of information.
- f. If you are unable to answer a question in a detailed and complete manner, or if you are unable to provide any of the information or documents requested, indicate the reason for your inability to do so. If you have reason to believe that there is an individual who may be able to provide more detail or documentation in response to any question, state that person's name, last known address and phone number, in addition to the reasons for your belief.
- g. If anything is deleted from a document produced in response to this RFI, state the reason for, and the subject matter of the deletion.
- h. For each document produced in response to this RFI, indicate on the document or in some other reasonable manner, the number of the question to which it applies. If a document is requested but is not available, state the reason for its unavailability.
- i. For the definition of "Water of the United States" and "Point Source", see 40 C.F.R. § 122.2.
- j. For the definition of "storm water associated with industrial activity", see 40 C.F.R. 122.26(b)(14).

RFI – Documents and Information Requested

Pursuant to Section 308(a) of the CWA, a written response to the information requested below shall be sent to EPA:

- 1. Provide a detailed description of the Facility.
- 2. Provide a copy of the property deed.
- 3. Provide a copy of all operation and/or used permits issued by governmental entities of the Commonwealth of Puerto Rico.
- 4. Indicate the name of the owner or owners of the property where the Facility operates, their addresses, phone numbers and officers.
- 5. Indicate the names of the corporations, businesses or individuals that are engaged in operating the Facility. Include the names of the officers, executive directors and agents, their addresses and phone numbers.

6. Indicate the names of all contractors, past and present that engaged in operating the Facility. Include a detailed description of their activities during the operation of the Facility, and the addresses, phone numbers and officers.
7. Provide a copy of the operation contracts between WCC and its contracted companies engaged in the operation of the Facility.
8. Indicate the exact date when WCC began to operate the Facility.
9. Indicate the date when each of the contracted companies began to engage in the operation of the Facility.
10. Indicate the periods of time, on a daily basis (beginning and end), when operation of the Facility took place since the first date that WCC activities began at the Facility until upon receipt of this letter. Provide documentation showing the periods of time in which operations of the Facility took place.
11. Provide a detailed description of the operations of the Facility, including but not limited to, those portions of the Facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication), equipment cleaning operations, or which are otherwise identified under 40 C.F.R. § 122.(b)(14)(i) or (ix)-(xi).
12. Provide a copy of a Facility site map.
13. Provide a copy of the Facility storm water collection and discharge system map.
14. Identify in a Facility site map and/or by other means, such as an aerial photography, those areas of the Facility in which industrial activities are conducted, as defined in 40 C.F.R. §§ 122.26(b)(14) and § 122.26(b)(14)(viii).
15. Provide a detailed explanation of the storm water runoff path from the Facility's premises into the receiving waters (i.e., Beatriz Creek).
16. Provide pictures of the storm water runoff points of discharge into the receiving body of water.
17. Provide a detailed explanation of the storm water runoff path from the Facility's premises into Road PR-1.
18. Provide pictures of the storm water runoff points of discharge into Road PR-1.
19. Provide a copy of all SWPPPs developed for the Facility during the last five (5) years.
20. Provide a copy of all Best Management Practices Plans ("BMP Plans") developed for the Facility during the last five (5) years.

RFI – Time and Delivery of Documents and Information

The response to this RFI shall be postmarked or received at EPA by November 30, 2019, and should be mailed to the following address:

Team Leader
Clean Water Act Team
Multimedia Permits and Compliance Branch
Caribbean Environmental Protection Division
U.S. Environmental Protection Agency, Region 2
City View Plaza II - Suite 7000
#48, PR-165, Km 1.2
Guaynabo, Puerto Rico 00968-8069

Your response shall include the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Failure to comply in all respects with this RFI within the time specified above may result in the initiation of an enforcement action under Section 309 of the Act, 33 U.S.C. §1319, under which injunctive relief and penalties may be sought. Such an enforcement action may include the assessment of penalties of up to \$53,484 per day for each day of continued non-compliance.

Please be advised that you are under a continuing obligation to supplement the response if information not known or not available to you as of the date of submission of your response should later become known or available to you. In this instance, you must supplement your response to EPA within five (5) business days.

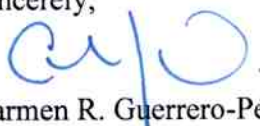
If at any time in the future you obtain or become aware of additional information or find that any portion of the submitted information is false, misleading or misrepresents the truth, you must notify EPA of this fact immediately and provide a corrected response within five (5) business days. If any part of the response is found to be untrue, you may be subject to criminal prosecution.

This Request for Information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501-3520. You may, if you so desire, assert a business confidentiality claim covering all or part of the information requested by this letter. A business confidentiality claim may be asserted by placing on (or attaching to) the information, at the time it is submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as "trade secret" or "proprietary" or "company confidential." Information covered by such a claim will be disclosed by EPA only in accordance with and by means of procedures set forth in Sub-Part B, 40 C.F.R. Part 2.

If no such claim accompanies the information contained in the response to the attached Request for Information when it is received by EPA, it may be made available to the public by EPA without further notice to you. You should read the above-cited statutory and regulatory provisions carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified by you. If you desire confidential treatment of information only until a certain date or until the occurrence of a certain event, your response should state so.

If you have any questions concerning this request, please contact Mr. Jaime López, Physical Scientist, Clean Water Act Team, at (787) 977-5851, or through electronic mail at "lopez.jaime@epa.gov."
We urge your prompt attention to this matter.

Sincerely,



Carmen R. Guerrero-Pérez
Director

Caribbean Environmental Protection Division

Enclosure

cc: Ángel Meléndez, DNER/WQA (via email w/enclosure)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 2
CARIBBEAN ENVIRONMENTAL PROTECTION DIVISION
MULTIMEDIA PERMITS AND COMPLIANCE BRANCH

**Industrial Facility
NPDES Stormwater Inspection**

Waste Collection, Corp.

81 Ave. Muñoz Rivera, San Juan, Puerto Rico 00918
Road PR-1, Km. 49.2, Parcelas Nuevas Sector, Beatriz Ward, Cidra, Puerto Rico
Coordinates: 18° 09' 38.90 N; 66° 05' 51.11 W

Sections 301 and 402 of the Clean Water Act
NPDES Regulations: 40 C.F.R. Part 122

NPDES ID: PRU098543 (unpermitted)

Inspections Date: May 2, 2019

Participating Personnel:

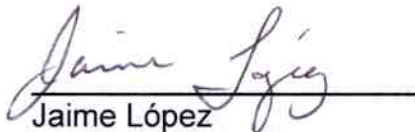
U.S. EPA:

Jaime López
Enforcement Officer/Physical Scientist
Clean Water Act Team

Constructora del Viví, Inc.:

Christopher García, Facility's maintenance employee
Tel.: (787) 638-8948

Inspection Report Prepared by:


Jaime López

10/8/19

Date

Enforcement Officer/Physical Scientist
Clean Water Act Team
Tel.: (787) 977-5851; Email: lopez.jaime@epa.gov

**Inspection Report
Approving Officer:**


José A. Rivera, BSCE

Oct. 9, 2019

Date

Lead Environmental Engineer
Clean Water Act Team
Multimedia Permits and Compliance Branch

1. **INTRODUCTION**

On May 2, 2019, Jaime López ("EPA Inspector"), enforcement officer and physical scientist, of the United States Environmental Protection Agency ("EPA"), Region 2, Caribbean Environmental Protection Division ("CEPD"), conducted a National Pollutant Discharge Elimination System ("NPDES") Stormwater Inspection at the Waste Collection, Corp's ("WCC") Solid Waste Transfer Station facility located in Cidra, Puerto Rico (the "Facility"). This Inspection Report includes findings and observations concerning the Inspection. The purpose of the Inspection was to evaluate WCC's compliance with the NPDES storm water permit application regulations in 40 C.F.R. § 122.26, as it relates to the operations of the Facility.

Upon showing of credentials to Mr. Christopher García, Facility's maintenance employee, the Inspection was performed pursuant to the inspection authority under Section 308(a) of the Federal Water Pollution Control Act ("CWA" or the "Act"), as amended. The Inspection consisted of an entry meeting to discuss the purpose of the Inspection; a Facility walkthrough to evaluate implementation and maintenance of Best Management Practices ("BMPs") concerning stormwater; documents review; and closing meeting to discuss preliminary findings of the Inspection and areas of concern.

2. **GENERAL INFORMATION**

The Inspection was conducted on Wednesday, May 2, 2019. The Inspection began approximately at 1:30 p.m. and ended approximately at 3:00 p.m. Cloudy weather with light rain prevailed most of the time of the Inspection.

3. **INFORMATION CONCERNING THE FACILITY AND NPDES PERMITTING**

Description of the Owner/Operator of the Facility

WCC is a for-profit corporation organized under the laws of the Commonwealth of Puerto Rico. The corporation was registered in the Puerto Rico Department of State on September 5, 2012, under registration number 316491.

Description of the Facility

The WCC's Facility is located at the municipality of Cidra, Puerto Rico. The main industrial activity at the Facility involves the operation of a solid waste transfer station engaged in collecting and transporting garbage without disposal. This activity is best described by the Standard Industrial Classification Code 4212 (Local Trucking Without Storage – garbage, Local Collecting and Transportation: without disposal). Solid waste transfer stations are facilities where solid waste, mainly municipal solid waste ("MSW"), is unloaded from collection vehicles or containers for reloading into larger, long-distance vehicles for transport to landfills or other permitted solid waste facilities for final disposal.

The Facility is a roofed solid waste transfer station with a truck and heavy equipment storage area. **Picture 1** below depicts an aerial photograph of the Facility and its surroundings, including the locations of the truck parking area and roof-covered temporary storage facility.

Picture 1¹

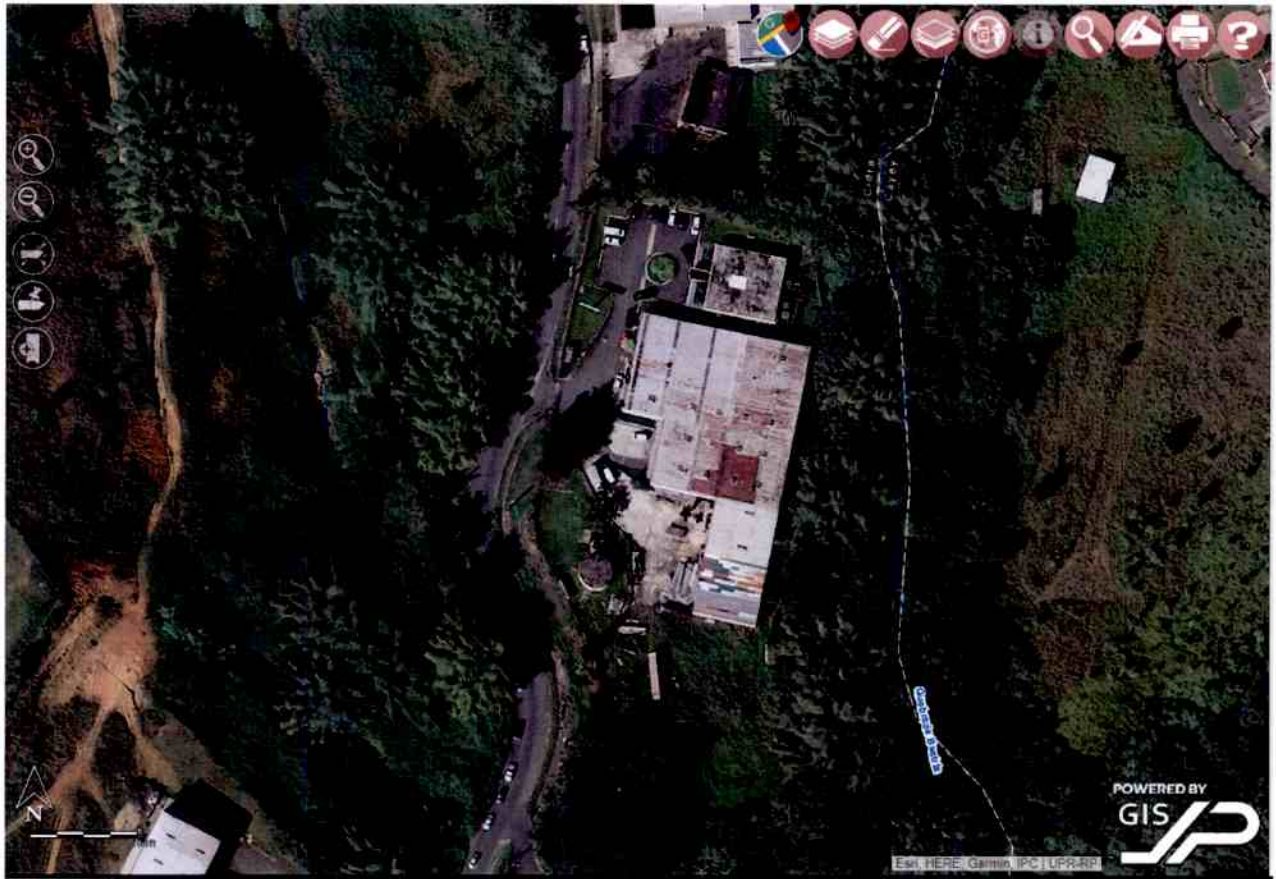


The Quebrada Beatriz borders the east boundary of the Facility. The Commonwealth of Puerto Rico has classified this surface body of water as a SD water in the Puerto Rico Water Quality Standards Regulation ("PRWQSR") promulgated by the Puerto Rico Department of Natural and Environmental Resources ("DNER").

Picture 2 (next page) depicts the hydrographic area near the Facility and the location of Quebrada Beatriz.

¹ The source of the photograph is Google Earth, and the photograph is dated May 2, 2019.

Picture 2²



NPDES Application Regulations

The NPDES storm water permit application regulations define the term storm water discharges associated with industrial activity. See 40 C.F.R. § 122.26(b)(14). The NPDES regulations at 40 C.F.R. § 122.26(b)(14)(viii) included transportation facilities classified as SIC 42 (except 4221-25), which have vehicle maintenance shops and equipment cleaning operations. The regulations established that only those portions of the facility that are either involved in vehicle maintenance (including vehicle rehabilitation, mechanical repairs, painting, fueling, and lubrication) and equipment cleaning operations are associated with industrial activity.

² The source of the photograph is MIPR, GIS, Planning Board, and the photograph is dated December 10, 2018.

Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity

On June 4, 2015, EPA published the final re-issuance of the Multi-Sector General Permit for Stormwater Discharges Associated with Industrial Activity (the "MSGP") under the provisions of the CWA. The MSGP became effective on June 4, 2015 and expires on June 4, 2020.

Operators of industrial facilities subject to the MSGP requirements must prepare and implement a Stormwater Pollution Prevention Plan ("SWPPP") for their facility. The objective of the SWPPP is three-fold: (1) identify potential sources of pollution at the facility; (2) describe control measures which are implemented at the facility to prevent stormwater pollution; and (3) provide written description of elements such as, but not limited to, inspections, record keeping, reporting and other requirements of the MSGP program that will help the facility comply with the terms and conditions of their stormwater discharge permit.

Also, the MSGP included Sector P: Land Transportation and Warehousing Motor Freight Transportation and Warehousing, and its applicable subsector is P1, which provides additional requirements for the transportation and warehousing operation activities.

3. NPDES APPLICATIONS FOR THE FACILITY

Based upon the EPA Inspector May 2, 2019 review of EPA's databases known as the Enforcement and Compliance History Online and e-Enterprise Portal, WCC had not:

- a. filed an electronic Notice of Intent ("eNOI") to seek coverage under the MSGP; and
- b. submitted an individual NPDES permit application under 40 C.F.R § 122.21(a).³

4. ENTRY MEETING AND REVIEW OF RECORDS

Upon entry to the Facility, the EPA Inspector met with Mr. García. The EPA Inspector stated the purpose of the Inspection. Then, the EPA Inspector requested the following documents for review: eNOI; MSGP; Discharge Monitoring Reports ("DMRs") and SWPPP. Mr. García could not deliver any of such records to the EPA Inspector.

5. FACILITY WALKTHROUGH

Upon completion of the review of records portion of the Inspection, the EPA Inspector proceeded to perform a walkthrough of the Facility. The following includes the EPA Inspector observations:

- a. The EPA Inspector did not observe a defined stormwater collection and discharge point or system from the areas of the Facility associated with the industrial activities.

³ <https://echo.epa.gov/>; <https://www.e-enterprise.gov/>

The EPA Inspector did not observe storm water sewer collection systems nor pipes or ditches that convey the stormwater runoff into Quebrada Beatriz.

- b. Lack of stormwater erosion and sediment controls, stormwater runoff management measures, and BMPs implementation at the truck staging area, loading and unloading areas, and access road entrance/exit point where track-out of sediments could occur.
- c. stormwater runoff from the truck staging area of the Facility may flow into a Quebrada Beatriz.
- d. ongoing loading and unloading activities were not observed.
- e. Mr. García stated that WCC does not monitor its stormwater runoff discharges from the Facility into Quebrada Beatriz.
- f. lack of a wheel washing station or other controls to minimize sediment track-out.

The Inspector included other observations in the Inspection photo-documentation in **Attachment 1** of this Inspection Report. The EPA Inspector used an EPA-owned Nikon Camera (Model Coolpix P530, Series 30059740) to take photographs and document his observations during the walkthrough of the Facility.

6. EXIT MEETING

Upon completion walkthrough of the Facility, the EPA Inspector had an exit meeting with Mr. García. The EPA Inspector provided a summary of his observations during the walkthrough of the Facility and the findings concerning the records pointing out WCC's lacks coverage under the MSGP for the Facility.

End of Report

Picture # 1

View of the open
concrete-lined drain
ditch that conveys
stormwater from the
entrance to Outfall 001.
Grass patches were
observed.



Picture # 2

Same as picture # 1.
Photo depicts stagnant
storm water and some
deposits of rain residues.

Picture # 3

View of a catch basin
located next to the
loading and unloading
area. This inlet had a
stormwater filter.



Picture # 4

View of the loading and unloading area. Grain residues and patches of stagnant stormwater were observed.



Picture # 5

View of the bulk grain unloading area with an unidentified non-storm water source.



Picture # 6

View of the bulk grain unloading area with some deposits of grain residues.



Picture # 7
View of sampling point
and outfall 001 lacking
the identification
signage.



Picture # 9
View of the stormwater
catch basin located prior
to outfall 001. This inlet
had a filter and may be
used for potential
relocation of the samplig
point for Outfall 001.



Picture # 9
Another view of the are
shown picture # 4. This
photo was taken from
another angle.



